

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

CHARLES H. DARBY, III,)
Petitioner,)
v.) No. 4:11CV93 CEJ
DAVE DORMIRE,)
Respondent.)

MEMORANDUM

This matter is before the Court on the petition of Charles H. Darby, III, for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. The petition is successive and shall be summarily dismissed.

Rule 4 of the Rules Governing § 2254 Cases in the United States District Courts provides that a district court shall summarily dismiss a § 2254 petition if it plainly appears that the petitioner is not entitled to relief.

Petitioner was convicted of two counts of statutory sodomy by the state court in 1997. Petitioner sought state and federal habeas relief after the conviction. See Darby v. Luebbers, 4:00CV974 CEJ (E.D. Mo. 2002). Petitioner was denied a certificate of appealability by the United States Court of Appeals for the Eighth Circuit on July 19, 2002. Darby v. Luebbers, No. 02-1801 (8th Cir. 2002).

To the extent that petitioner seeks to relitigate claims that he brought in his original petition, those claims must be denied pursuant to 28 U.S.C. § 2244(b)(1). To the extent that petitioner seeks to bring new claims for habeas relief, petitioner must obtain leave from the United States Court of Appeals for the Eighth Circuit before he can bring those claims in this Court. 28 U.S.C. § 2244(b)(3)(A). Petitioner has not been granted leave to file a successive habeas petition in this Court. As a result, the petition will be dismissed.

An Order of Dismissal will accompany this Memorandum

Dated this 31st day of January, 2011.



CAROL E. JACKSON
UNITED STATES DISTRICT JUDGE